



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART X

RULES AND GUIDANCE

CHAPTER I

RULE-MAKING POWERS

Modification or waiver

148 Modification or waiver of rules.

- (1) This section applies in relation to the following—
 - (a) auditors and actuaries rules;
 - (b) control of information rules;
 - (c) financial promotion rules;
 - (d) general rules;
 - (e) insurance business rules;
 - (f) money laundering rules; and
 - (g) price stabilising rules.
- (2) The Authority may, on the application or with the consent of an authorised person, direct that all or any of the rules to which this section applies—
 - (a) are not to apply to the authorised person; or
 - (b) are to apply to him with such modifications as may be specified in the direction.
- (3) An application must be made in such manner as the Authority may direct.
- (4) The Authority may not give a direction unless it is satisfied that—

Status: Point in time view as at 30/06/2005.

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- (a) compliance by the authorised person with the rules, or with the rules as unmodified, would be unduly burdensome or would not achieve the purpose for which the rules were made; and
 - (b) the direction would not result in undue risk to persons whose interests the rules are intended to protect.
- (5) A direction may be given subject to conditions.
- (6) Unless it is satisfied that it is inappropriate or unnecessary to do so, a direction must be published by the Authority in such a way as it thinks most suitable for bringing the direction to the attention of—
- (a) those likely to be affected by it; and
 - (b) others who may be likely to make an application for a similar direction.
- (7) In deciding whether it is satisfied as mentioned in subsection (6), the Authority must—
- (a) take into account whether the direction relates to a rule contravention of which is actionable in accordance with section 150;
 - (b) consider whether its publication would prejudice, to an unreasonable degree, the commercial interests of the authorised person concerned or any other member of his immediate group; and
 - (c) consider whether its publication would be contrary to an international obligation of the United Kingdom.
- (8) For the purposes of paragraphs (b) and (c) of subsection (7), the Authority must consider whether it would be possible to publish the direction without either of the consequences mentioned in those paragraphs by publishing it without disclosing the identity of the authorised person concerned.
- (9) The Authority may—
- (a) revoke a direction; or
 - (b) vary it on the application, or with the consent, of the authorised person to whom it relates.
- (10) “Direction” means a direction under subsection (2).
- (11) “Immediate group”, in relation to an authorised person (“A”), means—
- (a) A;
 - (b) a parent undertaking of A;
 - (c) a subsidiary undertaking of A;
 - (d) a subsidiary undertaking of a parent undertaking of A;
 - (e) a parent undertaking of a subsidiary undertaking of A.

Modifications etc. (not altering text)

- C1** S. 148 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2), 3(3)**; S.I. 2001/3538, **art. 2(1)**
S. 148 modified (*temp.* from 31.10.2001) by S.I. 2001/3374, **arts. 1, 11**
S. 148 restricted (6.8.2001) by S.I. 2001/2512, **arts. 1(1), 5(4)**
- C2** S. 148 modified (*temp.*) (8.4.2002) by The Financial Services and Markets Act 2000 (Permission and Applications) (Credit Unions etc.) Order 2002 (S.I. 2002/704), **art. 7**
- C3** S. 148 applied (with modifications) (11.4.2002 for certain purposes and 27.4.2002 otherwise) by The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544), **art. 9G(2)**

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- (as inserted by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2002 (S.I. 2002/682), arts. 1(2), 4)
- C4** S. 148: power to make rules amended (18.7.2002 for certain purposes and 21.8.2002 otherwise) by The Electronic Commerce Directive (Financial Services and Markets) Regulations 2002 (S.I. 2002/1775), regs. 1, **3(2)(a)**
- C5** S. 148 applied (6.8.2001) by S.I. 2001/2512, **arts. 1(1), 7(1)**
S. 148 applied (11.4.2002 for certain purposes and 27.4.2002 otherwise) by The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544), art. 9H(2) (as inserted by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2002 (S.I. 2002/682), arts. 1(2), 4)
- C6** S. 148 modified (temp. from 1.1.2004 to 31.10.2004) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 1) Order 2003 (S.I. 2003/1475), **arts. 1(2) 26, {29}**
- C7** S. 148 modified (temp. from 1.1.2004 to 14.1.2005) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2003 (S.I. 2003/1476), **arts. 1(2) 22, {27}**
- C8** S. 148(2) extended (1.12.2001) by S.I. 2001/3647, arts. 1, 4, **Sch. 2 paras. 1-3**
- C9** S. 148(3)-(9)(11) applied (with modifications) (3.9.2001 for specified purposes otherwise 1.12.2001) by S.I. 2001/1228, **regs. 1(2)(b)(c), 7(3)(4)** (with reg. 1(2)(3)); S.I. 2001/2632, art. 2(2), **Sch. Pt. 2**; S.I. 2001/3538, **art. 2(1)**
- C10** S. 148(3)-(9)(11) applied (with modifications) (N.I.) (1.11.2004) by Open-Ended Investment Companies Regulations (Northern Ireland) 2004 (S.R. 2004/335), regs. 1(1)(b), **7(3)(4)** (with reg. 1(2))

Commencement Information

- II** S. 148 wholly in force at 3.9.2001; s. 148 not in force at Royal Assent see s. 431(2); s. 148 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, **Sch. s. 148** in so far as not already in force at 3.9.2001 by S.I. 2001/2632, art. 2(2), **Sch. Pt. 2**

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